

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF TENNESSEE  
WESTERN DIVISION**

---

JOSHUA MALLORY,

Plaintiff,

v.

MEMPHIS POLICE DEPARTMENT,

Defendant.

---

)  
)  
)  
)  
)  
)  
)

No. 2:21-cv-02400-SHL-cgc

---

**ORDER ADOPTING REPORT AND RECOMMENDATION AND  
DISMISSING COMPLAINT**

---

Before the Court is Magistrate Judge Charmiane G. Claxton's Report and Recommendation, (ECF No. 7), filed July 9, 2021. The Report granted Plaintiff's in forma pauperis application and recommended that the Court dismiss Plaintiff's Complaint, (ECF No. 1).

A magistrate judge may submit to a judge of the court proposed findings of fact and recommendations for dismissal of a complaint for failure to state a claim. 28 U.S.C. § 636(b)(1)(B). "Within 14 days after being served with a copy of the recommended disposition, a party may serve and file specific written objections to the proposed findings and recommendations." Fed. R. Civ. P. 72(b)(2); see also 28 U.S.C. § 636(b)(1) (2017). A district court reviews de novo only those proposed findings of fact or conclusions of law to which a party specifically objects; the rest are reviewed for clear error. 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 72(b)(3).

Plaintiff has not objected to the Magistrate Judge's Report and Recommendation. (ECF No. 7.) The time to do so has expired. Thus, the Court will review the Report for clear error. First, Plaintiff does not name an individual alleged to have violated his constitutional rights, and local governmental entities like Defendant may only be sued under 42 U.S.C. § 1983 if they are

responsible for a pattern or policy of constitutional violations. Monell v. Dept. of Social Services, 436 U.S. 658, 690–91 (1978). No such allegations are included here. Further, Plaintiff’s sole allegation that could show discrimination is that “guys were calling him gay.” (ECF No. 1-1.) However, he says this just after discussing men who allegedly attacked him outside a laundromat. (ECF No. 1-1.) He does not state specifically that the police officers said anything about his sexual orientation, and thus his Complaint does not contain sufficient facts to raise an inference of discrimination. Thus, it was not clear error for the magistrate judge to dismiss his claim.

Therefore, the Court **ADOPTS** the Magistrate Judge’s Report and **DISMISSES** the Complaint with prejudice.

**IT IS SO ORDERED**, this 2nd day of August, 2021.

s/ Sheryl H. Lipman  
SHERYL H. LIPMAN  
UNITED STATES DISTRICT JUDGE